IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY SEVENTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

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WRIT PETITION NO : 3950 of 2004

Between:

Vivekananda Educational Society,

Tangutur (V) & (M), Prakasam District
Rep. by Secretary/Correspondent,

P.Prasad, S/o. Venkateshwarlu
30 years, r/o. Ponnalur (V) & (M), Prakasam District.

..... PETITIONER

AND

The Secretary,

Andhra Pradesh State Council of Higher Education,

Hyderabad

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order, direction or writ more particularly one in the nature of writ of Mandamus declaring the action of the respondent in issuing proceedings Dated:22-8-2003 and in not sending the Inspection Committee to the premises of the petitioner society to inspect and submit a report for consideration for establishment of new private unaided Degree College at Tangutur (V) and (M) Prakasam District., even though it fulfilled all the conditions prescribed, as illegal, arbitrary and unjust and

contrary to law and consequently set aside the proceedings dated:22-8-2003 and direct the respondent to forthwith send the Inspection Committee to inspect the premises of the petitioner society in order to submit a report to the respondent for establishment of new private unaided Degree College at Tangutur (V) & (M), Prakasam District.

Counsel for the Petitioner:MR.G.RAVI MOHAN

Counsel for the Respondent: MR.K.RAMESH BABU, Standing Counsel

The Court at the stage of admission made the following ORDER:

The petitioner-society, which was formed with an objective of establishing educational institutions and imparting education in the rural areas, responded to the notification issued by the respondent dated 17-02-2003 for starting private unaided Degree Colleges for the academic year 2003-2004 by making necessary application along with required documents seeking permission to start a college. It is not in dispute that on such application being made, the Joint Inspection Committee visited the proposed college of the petitioner-society on 20-05-2003, noted certain deficiencies with regard to the building accommodation namely, in building No.1 (D.No.13/114) necessary partitions were not made and building No.2 (D.No.13/69) is situated by the side of a tobacco godown, which is undesirable location for running the college and the room dimensions are not tallying with the plan submitted, and accordingly submitted a report on 22-05-2003 to the Nagarjuna University and the said University had agreed with the observations of the Joint Inspection Committee and communicated its decision to the respondent not to accord permission to the petitioner-society for starting a new college. Accordingly, the respondent rejected the proposal of the petitioner-society and communicated the same to it. Meanwhile, several unsuccessful applicants like that of petitioner-society made a representation to the respondent to give them an opportunity to rectify the deficiencies pointed out. In view of the same, the Task Force Committee was constituted to verify the compliance of the applicants and to recommend accordingly and thereby, a special notification was issued on 20-07-2003 stating that the respondent decided to give another opportunity for re-inspection/inspection of the proposals inspected by the Joint Inspection Committee and rejected by the

University and the proposals, which were rejected at the counselling level, and also the managements who have not attended the counselling and accordingly, the societies were informed to attend before the Task Force along with the documentary evidence in original and two sets of Xerox copies, fulfilling all the conditions, as per the schedule given in the special notification. In the said schedule, the date 01-08-2003 was fixed to verify the proposals under Nagarjuna/SK University areas. Accordingly, the petitioner-society appeared before the Task Force Committee along with the documents on the said date. After verification of the documents furnished by the petitioner-society, the Task Force committee observed that “the building accommodation is falling short of 1103 sq.feet and the management has shown 3 floors in the photographs but only the first floor is completed, second floor construction is in progress and third floor is not in existence” and therefore, the petitioner-society has not rectified the deficiencies pointed out by the Joint Inspection Committee reported earlier i.e. on 22-05-2003. Since the deficiencies were not rectified, observations of the Task Force Committee were approved on 04-08-2003. On such approval, the respondent issued proceedings on 22-08-2003 rejecting the proposal of the petitioner-society and sent communication to it on the said date mentioning the reasons for rejection of the proposal of the petitioner-society. Questioning the said proceedings, the petitioner-society filed the present writ petition in the month of March, 2004 contending that it has addressed a letter dated 05-08-2003 to the respondent stating that it has complied with the deficiencies pointed out by the Task Force Committee and that as per the special notification, dated 20-07-2003, the inspection committee has to be sent for reinspection/inspection to verify whether the petitioner-society rectified the deficiencies pointed out earlier or not and therefore, without reinspecting the premises, rejection of application made by the petitioner-society is arbitrary and illegal.

Heard the learned counsel for the petitioner-society as well as the learned Standing Counsel appearing for the respondent at length.

In the special notification issued by the respondent, it is made clear that the societies, which were responded to the earlier notification dated 17-02-2003, had given another opportunity to rectify the deficiencies, which were despatched by it earlier, in their proposals and to attend on the proposed date before the Task Force along with the documentary evidence in original in evidence of fulfilling the

deficiencies pointed out earlier. It is not in dispute that on 01-08-2003, the petitioner-society appeared before the Task Force but not produced any evidence to show that the deficiencies pointed out, earlier, were complied with. In view of the fact that no documentary evidence was produced by the petitioner-society on the said date, the Task Force committee rejected the claim of the petitioner-society for establishing a college, as it has not rectified the deficiencies and accordingly, recommended for rejection on 04-08-2003. In view of the same, the respondent rejected the claim of the petitioner-society by issuing proceedings dated 22-08-2003 and communicated the same to it. Only after Task Force rejected the claim of the petitioner-society, the petitioner-society made a representation to the respondent on
05-08-2003 stating that it has rectified the deficiencies. If that be the case, the petitioner-society cannot claim reinspection as a matter of right unless necessary material has been produced on the notified date for verification of records.

In view of the same, the submission made by the learned counsel for the petitioner-society that the respondent is under obligation to reinspect the premises in question to verify the compliance of deficiencies cannot be accepted. Learned counsel for the petitioner-society further submits that for the academic year 2004-2005, it is not known whether any such notification is issued by the respondent inviting applications from the required societies for establishment of such colleges. In the event of any need arises for establishing such colleges and if any notification is issued for such purpose, it is open for the petitioner-society to make an application for consideration of its claim for establishing a college for the academic year 2004-2005 and in such an event, if the petitioner-society is eligible for establishment of such college, the respondent can consider the same as per rules.

The writ petition is accordingly disposed of. No costs.

27th OCTOBER, 2004.

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To

1 The Secretary,

Andhra Pradesh State Council of Higher Education,

Hyderabad

2 Two CD copies.